

SENATE BILL NO. 180

INTRODUCED BY COONEY

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE STATE ARCHIVES TO CHARGE CERTAIN AGENCIES AN ANNUAL FEE TO COVER COSTS; REQUIRING THE LEGISLATIVE AUDITOR TO AUDIT AND REPORT ON AGENCY COMPLIANCE WITH STATUTES REGARDING THE TRANSFER AND STORAGE OF PUBLIC RECORDS; AMENDING SECTION 5-13-304, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. State archives authorized to charge annual fee -- STATE SPECIAL REVENUE ACCOUNT -- definitions. (1) (A) To cover the costs of records storage and records management and the costs of providing permanent public access to records, the state archives may charge each agency an annual fee not to exceed \$9 for each of the agency's authorized positions.

(B) WHEN PAYING THE FEE, EACH AGENCY SHALL COMPLY WITH OMB CIRCULAR A-87.

(2) THE FEES COLLECTED PURSUANT TO THIS SECTION MUST BE DEPOSITED INTO AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND.

(3) MONEY IN THE ACCOUNT MAY BE USED ONLY TO COVER THE COSTS OF RECORDS STORAGE AND RECORDS MANAGEMENT AND THE COSTS OF PROVIDING PERMANENT PUBLIC ACCESS TO RECORDS IN THE STATE ARCHIVES.

~~(2)~~(4) As used in this section, the following definitions apply:

(a) "agency" means any executive or legislative unit that is recognized in the state budget and that sends records to the state archives of the Montana historical society;

(b) "authorized position" means a position listed by an agency pursuant to 2-18-206; and

(c) "record" means a writing, as defined in 2-6-101, a public record as defined in 2-6-202, an official record as defined in 2-6-301, or any other material accepted and stored by the state archives.

SECTION 2. SECTION 5-13-304, MCA, IS AMENDED TO READ:

"5-13-304. Powers and duties. (1) The legislative auditor shall:

~~(1)~~(a) conduct a financial and compliance audit of every state agency every 2 years covering the 2-year period since the last audit, unless otherwise required by state law;

(2)(b) conduct a special audit whenever the legislative auditor determines it necessary and shall so advise the members of the legislative audit committee;

~~(3)~~(c) make a complete written report of each audit. A copy of each report must be furnished to the department of administration, the state agency that was audited, each member of the committee, and the legislative services division.

(4)(d) report immediately in writing to the attorney general and the governor any apparent violation of penal statutes disclosed by the audit of a state agency and furnish the attorney general with all information available relative to the violation;

(5)(e) report immediately in writing to the governor any instances of misfeasance, malfeasance, or nonfeasance by a state officer or employee disclosed by the audit of a state agency;

~~(6)~~(f) report immediately to the surety upon the bond of an official or employee when an audit discloses a shortage in the accounts of the official or employee. Failure to notify the surety does not release the surety from any obligation under the bond.

(g) during regularly scheduled audits of state agencies, audit and report on agency compliance with the provision of 2-6-211(1) regarding the transfer and storage of public records.

(7)(2) have The legislative auditor has the authority to audit records of organizations and individuals receiving grants from or on behalf of the state to determine that the grants are administered in accordance with the grant terms and conditions. Whenever a state agency enters into an agreement to grant resources under its control to others, the agency shall obtain the written consent of the grantee to the audit provided for in this subsection."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 6, part 4 2, and the provisions of Title 2, chapter 6, part 4 2, apply to [section 1].

NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2005.

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